

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JOE DALE MARTINEZ AND §
FIDENCIO LOPEZ, JR., Individually, §
and on behalf of all others similarly §
situated; §
§
Plaintiffs, § CIVIL ACTION NO. 2:11-CV-295
v. § JURY TRIAL DEMAND
REFINERY TERMINAL FIRE COMPANY §
§ COLLECTIVE ACTION
Defendant § PURSUANT TO 29 U.S.C. §216(b)

**UNOPPOSED JOINT MOTION TO EXTEND EXPERT DESIGNATION
AND REPORT DEADLINES**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiffs Joe Dale Martinez and Fidencio Lopez, Jr., Individually, and on behalf of all others similarly situated (hereinafter referred to as "Plaintiffs") and Defendant Refinery Terminal Fire Company (hereinafter referred to as "RTFC") file this Unopposed Joint Motion to Extend Expert Designation and Report Deadlines. In support hereof, the Parties assert the following:

1. The Parties have conferred and jointly request to modify and extend the future expert designations, submission of expert reports, submission of rebuttal expert reports, submission of statement of intent regarding mediation, end of discovery, status conference, and the filing of dispositive and Daubert motion deadlines.
2. The Parties' proposed modifications to the scheduling order are as follows:
 - a. Designation of Experts by Plaintiffs – May 10, 2013
 - b. Designation of Experts by Defendant – May 10, 2013
 - c. Submission of Expert Report(s) by Plaintiffs – May 10, 2013

- d. Submission of Expert Report(s) by Defendant – May 10, 2013
- e. Submission of Rebuttal Expert Report(s) by Plaintiffs – June 10, 2013
- f. Submission of Rebuttal Expert Report(s) by Defendant – June 10, 2013
- g. Discovery shall end – June 11, 2013
- h. Statement of Intent Regarding Mediation – June 18, 2013
- i. Status Conference – June 25, 2013
- j. Filing of Dispositive and Daubert Motions – July 15, 2013

3. This case involves claims of unpaid overtime pursuant to the Fair Labor Standards Act, 29 U.S.C. § 207 ("FLSA"). Plaintiffs assert claims that RTFC failed to pay the Plaintiffs time and a half of their regular hourly rate of pay for all hours worked in excess of forty (40) hours per workweek; which is expressly and vigorously denied by RTFC.

4. Additionally, RTFC contends that various exemptions to the FLSA minimum wage and overtime rules exist.

5. On February 6, 2013, the Court issued an Order on Unopposed Motion to Reset Trial Date, setting the Final Pretrial Conference for August 22, 2013, at 9:00 a.m. and trial date for August 26, 2013, at 9:00 a.m. Prior to this order, trial had been set for June 24, 2013.

6. Prior to the latest trial setting, the Court issued an Agreed Order on Joint Motion to Extend Expert Designation and Report Deadlines on January 29th, 2013, setting the following future pretrial deadlines:

- a. Designation of Experts by Plaintiffs – March 11, 2013
- b. Designation of Experts by Defendants – March 11, 2013
- c. Submission of Expert Report(s) by Plaintiffs – March 11, 2013
- d. Submission of Expert Report(s) by Defendants – March 11, 2013

- e. Submission of Rebuttal Expert Report(s) By Plaintiffs – April 9, 2013
- f. Submission of Rebuttal Expert Report(s) By Defendants – April 9, 2013
- g. Discovery shall end – April 10, 2013
- h. Statement of Intent Regarding Mediation – April 17, 2013
- i. Status Conference – April 24, 2013 at 9:00 a.m.
- j. Filing of Dispositive and Daubert Motions – April 29, 2013

7. Potential plaintiffs include over 100 current and former employees of RTFC.

Time records alone for the applicable period account for over 15,500 individual, handwritten documents.

8. While the Parties are working diligently, the Parties underestimated the volume of documents required to be produced and examined in this case. For example, the time sheets alone occupy five (5) full banker storage boxes, the personnel files are approximately three times larger, and these documents do not include Department of Transportation records, training files and other records. While the records will eventually be placed in computer files, each of these thousands of pages of documents must be individually reviewed for possible use in this case.

9. It has become apparent to counsel for both Parties that due to the volume of necessary discovery documentation, there is insufficient time to allow any consulting or testifying expert to adequately review the documentation and issue appropriate reports and opinion.

10. This case is set for a jury trial on August 26, 2013 at 9:00 a.m. Extending the deadline to designate experts by approximately sixty (60) days for each Party will not work as a hardship on either party, but would rather facilitate getting the reports prepared and exchanged in a timely fashion. Further, it is a reflection of the additional two months the parties and experts

will have to prepare their case due to the newly amended trial date.

11. The Parties are unopposed and expressly agree to have the deadline for designation of experts and the deadline for submission of expert reports set to be the same day, consistent with the Court's original Scheduling Order.

12. Consistent with the forgoing requests, the submission of rebuttal expert reports, the submission of statement of intent regarding mediation, end of discovery, status conference, and the filing of dispositive and Daubert motion deadlines would therefore be required to be moved to accommodate the submission of rebuttal expert reports within the discovery time available.

13. Accordingly, Plaintiffs and Defendant RTFC request the Court grant this Unopposed Joint Motion to Extend Expert Designation and Report Deadlines relating to future expert designations, submission of expert reports, submission of rebuttal expert reports, submission of statement of intent regarding mediation, end of discovery, status conference, and the filing of dispositive and Daubert motion deadlines by a minimum of sixty (60) days.

Dated ____ day of _____, 2013.

/s/ Craig M. Sico
Craig M. Sico
Attorney-in-charge
Roger S. Braugh, Jr.
SICO, WHITE, HOELSCHER & BRAUGH LLP
802 N. Carancahua, Suite 900
Corpus Christi, Texas 78401
Telephone: (361) 653-3300
Facsimile: (361) 653-3333
csico@swbtrial.com
TSB # 18339850
Fed. I.D. # 13540

ATTORNEYS FOR PLAINTIFFS

/s/ Keith B. Sieczkowski

Keith B. Sieczkowski
Attorney-in-charge
Allison E. Moore
BRANSCOMB|PC
802 North Carancahua, Suite 1900
Corpus Christi, Texas 78401
Telephone: (361) 886-3800
Facsimile: (361) 886-3805
ksieczkowski@branscombpc.com
TSB # 18341650
Fed. I.D. # 7118

***ATTORNEYS FOR DEFENDANT
REFINERY TERMINAL FIRE COMPANY***

CERTIFICATE OF SERVICE

I certify that on the 22nd day of February 2013 I served a true and correct copy of the foregoing Agreed Motion to Extend Deadlines by electronic service to the following:

Keith B. Sieczkowski
Allison E. Moore
BRANSCOMB|PC
802 North Carancahua, Suite 1900
Corpus Christi, Texas 78401

Via Facsimile: (361) 886-3805

/s/ Craig M. Sico
Craig M. Sico
Roger S. Braugh, Jr.